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Office Supreme Court, U.S.
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No. 242

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JOHN F. DAVIS, CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM, 1961

THE GLIDDEN COMPANY, DURKEE FAMOUS FOODS
DIVISION, A Foreign Corporation,
Petitioner,

against

OLGA ZDANOK, JOHN ZACHARCZYK, MARY A. HACKETT,
QUITMAN WILLIAMS and MARCELLE KREISCHER,
Respondents.

On Writ of Certiorari to the United States Court of Appeals
for the Second Circuit

MOTION OF NATIONAL PAINT, VARNISH AND LACQUER
ASSOCIATION, INC. FOR LEAVE TO FILE BRIEF AS
AMICUS CURIAE AND BRIEF OF AMICUS CURIAE

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Varnish and Lacquer
Association, Inc.*

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**MOTION FOR LEAVE TO FILE BRIEF AS
AMICUS CURIAE**

Now comes the National Paint, Varnish and Lacquer Association, Inc., and respectfully moves the Court for leave to file a brief as amicus curiae in the above entitled cause. While petitioner has consented to the filing of such a brief, the attorney for the respondents herein, has refused to consent to such filing.

The National Paint, Varnish and Lacquer Association, Inc., is a non-profit trade association, incorporated under the laws of Delaware. Its members are manufacturers of paint, varnish and lacquer, and suppliers of raw materials for such products. Its members manufacture in excess of 90 per cent in dollar volume of the paints, varnishes and lacquers produced in the United States.

The National Paint, Varnish and Lacquer Association, Inc., desires that this Court grant the petition sought in the above entitled cause and its interest is limited to the granting of the petition only.

The decision complained of by petitioner in this case has produced widespread confusion among members of the National Paint, Varnish and Lacquer Association, Inc., who are employers, bound by the provisions of the National Labor Relations Act. (Title 29 U.S.C. § 157 et seq)

The conflict between the decision by the United States Circuit Court of Appeals for the Second Circuit and decisions of the United States Courts of Appeals in the Fifth, Sixth and Seventh Circuits, results in an urgent need for a decision by this Court to resolve such conflict.

The National Paint, Varnish and Lacquer Association, Inc., therefore, wishes to file the attached brief in support of its contention that this Court should examine the questions presented and define for the benefit of all employers coming under the provisions of the National Labor Relations Act a clear rule of conduct so that they may have a definite guide for the discharge of their obligations under the National Labor Relations Act.

STATEMENT UNDER RULE 33.2(b)

Since the proceeding draws into question the constitutionality of the Act of July 28, 1953, 67 Stat. 226, Title 28 U.S.C. Section 171, an Act of Congress affecting the public interest, and neither the United States nor any agency, officer or employee thereof is a party, it is noted that Title 28 U.S.C. Section 2403 may be applicable.

No Court of the United States as defined by Title 28 U.S.C. Section 451 has, pursuant to Title 28 U.S.C. Section 2403, certified to the Attorney General the fact that the constitutionality of such Act of the Congress has been drawn in question, so far as is known by the undersigned.

Respectfully presented,

DANIEL S. RING,
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Washington 5, D. C.
*Counsel for National Paint,
Varnish and Lacquer
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BRIEF OF NATIONAL PAINT, VARNISH AND LACQUER
ASSOCIATION, INC.

This brief is filed on behalf of the National Paint, Varnish and Lacquer Association, Inc., a trade association comprised of manufacturers of paint, varnish and lacquer products. It is incorporated under the laws of the State of Delaware. Its members manufacture more than 90 per cent in dollar volume of paints, varnishes and lacquers produced in the United States.

The vast majority of the members of the Association are employers who are governed by the provisions of the National Labor Relations Act.

The conflict of decisions between the United States Court of Appeals for the Second Circuit¹ and the United States Courts of Appeals in the Fifth,² Sixth³ and Seventh Circuits,⁴ results in serious confusion on the part of the members of the National Paint, Varnish and Lacquer Association, Inc., with respect to their obligations under the National Labor Relations Law in collective bargaining matters. The conflict of decisions is adequately set forth in the petition for the writ on Pages 13 to 16.

The National Paint, Varnish and Lacquer Association, Inc., does not wish to take any position on the merits of the case in the event the writ is granted but respectfully submits that its members have a right to know which line of decisions should be observed in the discharge of their obligations under the National Labor Relations Act.

For this reason the National Paint, Varnish and Lacquer Association, Inc., urges that the petition of the Glidden Company, Durkee Famous Foods Division, for a writ of certiorari be granted, and that upon ex-

¹ Glidden v. Zdanok et al., 288 F. 2d 99.

² System Federation No. 59 of Railway Employees v. La. & A. Ry. Co., 119 F. 2d 509, 515 (CA 5th Cir. 1941).

³ Elder v. N. Y. Central R. R. Co., 152 F. 2d 361, 364 (CA 6th Cir. 1945).

⁴ Local Lodge 2040, International Association of Machinists v. Serval, 268 F. 2d 692, 698 (CA 7th Cir. 1959).

amination of the questions presented this Court hand down a clear statement of the law with respect to the issues involved.

Respectfully submitted,

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